IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9704 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

G S R T CORPN

Versus

HASMUKHBHAI B VYAS C/O ST KARAMCHARI MANDAL

Appearance:

MR HS MUNSHAW for Petitioner

MR GM JOSHI for Respondent No. 1

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 22/03/2000

ORAL JUDGEMENT

In this petition, the petitioner corporation has challenged the award passed by the industrial tribunal, Rajkot in Reference ITR No. 47 of 1992 dated 9th December, 1998. This Court has issued notice to the

respondent which was made returnable on 22nd March, 2000. Meanwhile ad interim stay of the award has been granted.

Rule. Service of rule is waived by Mr.G.M.Joshi, the learned advocate appearing for the respondent workman. On the facts and in the circumstances of the case, the matter is taken up for final hearing today itself.

The facts of the present petition, in short, are that the respondent was working with the petitioner corporation as a conductor in the City Service, Rajkot. While working as such, various punishment orders were pased by the corporation against the respondent workman. There are number of orders dated 30.5.88, 31.1.86,13.8.1984, 30.4.90, 19.6.79,11.12.76 and 2.4.83. The respondent has, through union, raised the industrial dispute challenging all the orders of punishment before the industrial tribunal. The tribunal has considered the details of each misconduct which has been mentioned in paragraph 7 of the award. None of the charge levelled against the respondent workman relates to dishonesty and/or misappropriation of the fund. The charge against the respondent is that of non issuance of tickets and/or non recovery of fare from certain passengers. The tribunal considered all these aspects of the matter and under its judgment and award dated 9.12.1998, the tribunal allowed the reference directed to impose punishment of stoppage of three increments withcumulative effect while setting aside all the earlier orders of punishment which werepassed by the petitioner corporation against which the petitioner corporation has filed the present petition.

I have heard the arguments advanced by Mr. Munshaw for the petitioner and Mr. Joshi for the respondent workman. Mr. Munshaw has submitted that the workman has raised the dispute belatedly and that the respondent has in past commited 29 defaults and, therefore, according to him, the tribunal has committed gross error while setting aside the earlier orders of punishment.

On the other hand, learned advocate Mr. Joshi has submited that becauseof various punishments imposed, the salary of the workman has been reduced to Rs.1082.00 and that he would not be able tomaintain his family in such a meagre amount and, therefore, this court should not interfere with the impugned award in exercise of the powers under Article 226 and/or 227 of the Constitution of India.

I have considered the submissions made by the learned advocates for the parties. I have also perused the impugned award passed by the tribunal. Taking into consideration the fact that in none of the incidents, there is an allegation of misappropriation and/or dishonesty levelled against the workman and also considering the length of service and the nature of duties to be performed by the conductor, I am of the opinion that the tribunal has rightly passed the impugned award which requires no interference of this court while exercising the powers under Article 226 and/or 227 of the Constitution of India. Learned advocate Mr.Munshaw appearing for the petitioner has not been able to point out any infirmity and/or jurisdictional error in the impugned order passed by the labour court. Therefore, this petition is dismissed. Rule is discharged. There shall be no order as to costs.

Dt.22.3.2000. (H.K.Rathod,J.)